MONTANA LEGISLATIVE HISTORY

Chapter 506 19 97

Bill H _____ S 396 Original bill & history ____C

H. Committee on Business & Labor			S. Committee on Taxation		
Hearing Date(s)	Apr 07	✓ C	Hearing Date(s)	Mar 25	✓ C
	_____	____C		Mar 26	✓ C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	Apr 07	✓ C		Mar 26	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

3/21	REFERRED TO TAXATION		
3/21	FISCAL NOTE REQUESTED		
3/25	HEARING		
3/25	FISCAL NOTE RECEIVED		
3/25	FISCAL NOTE PRINTED		
3/26	COMMITTEE REPORT—BILL PASSED AS AMENDED		
4/02	2ND READING PASSED AS AMENDED	50	0
4/03	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
4/03	FIRST READING		
4/03	REFERRED TO BUSINESS & LABOR		
4/07	HEARING		
4/07	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/15	2ND READING CONCURRED	93	6
4/16	3RD READING CONCURRED	88	10
	RETURNED TO SENATE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS CONCURRED	49	1
4/18	3RD READING CONCURRED AS AMENDED	46	3
4/24	SIGNED BY PRESIDENT		
4/24	SIGNED BY SPEAKER		
4/24	TRANSMITTED TO GOVERNOR		
5/02	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 506		
	EFFECTIVE DATE: 05/02/97		

SB 397 INTRODUCED BY GROSFIELD *LC0739 DRAFTER: WILLIAMS*

REVISE SCHOOL LAWS TO ALLOW, IF APPROVED, THE USE OF ANTICIPATED ENROLLMENT FIGURES IN THE CALCULATION OF A DISTRICT'S GUARANTEED TAX BASE RATIO WHEN THE DISTRICT IS SUBJECT TO AN UNUSUAL ENROLLMENT INCREASE BECAUSE OF LARGE-SCALE MINERAL DEVELOPMENT OR OTHER POPULATION INFUSION

3/22	INTRODUCED		
3/22	FIRST READING		
3/22	REFERRED TO TAXATION		
3/22	FISCAL NOTE REQUESTED		
3/26	HEARING		
3/26	FISCAL NOTE RECEIVED		
3/26	FISCAL NOTE PRINTED		
3/28	HEARING		
3/28	COMMITTEE REPORT—BILL PASSED AS AMENDED		
4/02	2ND READING DO PASS MOTION FAILED	23	26

SJ 1 INTRODUCED BY HARP *LC0151 DRAFTER: PETESCH*

REVISE THE JOINT LEGISLATIVE RULES

BY REQUEST OF JOINT RULES COMMITTEE

1/03	INTRODUCED		
1/06	FIRST READING		
1/06	REFERRED TO RULES		
1/13	HEARING		
1/13	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/14	2ND READING PASSED	43	7
1/15	3RD READING PASSED	43	6
	TRANSMITTED TO HOUSE		
1/16	FIRST READING		
1/16	REFERRED TO RULES		
1/17	2ND READING CONCURRED	94	6

SB 394 INTRODUCED BY JABS, ET AL. *LC1032 DRAFTER: STERNBERG*

AUTHORIZE THE FISH, WILDLIFE, AND PARKS COMMISSION TO SEPARATE NONRESIDENT DEER LICENSES FROM THE NONRESIDENT BIG GAME COMBINATION LICENSES FOR THE PURPOSE OF DEER MANAGEMENT

3/12	INTRODUCED		
3/12	FIRST READING		
3/12	REFERRED TO FISH & GAME		
3/12	FISCAL NOTE REQUESTED		
3/18	HEARING		
3/18	FISCAL NOTE RECEIVED		
3/18	FISCAL NOTE PRINTED		
3/21	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/24	2ND READING PASSED	36	13
3/25	3RD READING PASSED	38	11
	TRANSMITTED TO HOUSE		
3/26	FIRST READING		
3/26	REFERRED TO FISH, WILDLIFE & PARKS		
4/08	HEARING		
4/09	COMMITTEE REPORT—BILL CONCURRED		
4/11	2ND READING CONCURRED	54	43
4/12	3RD READING CONCURRED	51	48
	RETURNED TO SENATE		
4/18	SIGNED BY PRESIDENT		
4/20	SIGNED BY SPEAKER		
4/21	TRANSMITTED TO GOVERNOR		
4/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 355		
	EFFECTIVE DATE: 04/22/97		

SB 395 INTRODUCED BY MAHLUM, ET AL. *LC1216 DRAFTER: MARTIN*

RELATE TO THE EQUALIZED TAX TREATMENT BETWEEN IN-STATE AND OUT-OF-STATE OWNERS OF RENTAL VEHICLES

3/17	INTRODUCED		
3/17	FIRST READING		
3/17	REFERRED TO TAXATION		
3/17	FISCAL NOTE REQUESTED		
3/20	FISCAL NOTE RECEIVED		
3/20	FISCAL NOTE PRINTED		
3/21	HEARING		
3/27	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/27	REVISED FISCAL NOTE REQUESTED		
4/02	REVISED FISCAL NOTE RECEIVED		
4/02	2ND READING PASSED AS AMENDED	38	11
4/02	REVISED FISCAL NOTE PRINTED		
4/03	3RD READING PASSED	40	10
	TRANSMITTED TO HOUSE		
4/03	FIRST READING		
4/03	REFERRED TO TAXATION		
4/09	HEARING		
4/10	TABLED IN COMMITTEE		
	DIED IN COMMITTEE		

SB 396 INTRODUCED BY FOSTER, ET AL. *LC0797 DRAFTER: EVERTS*

ALLOW NATURAL GAS UTILITIES TO PROVIDE FOR CUSTOMER CHOICE

3/21	INTRODUCED
3/21	FIRST READING

BILL NO. SB 396

INTRODUCED BY Foster Jamison Thomas Grady Beaudry Richardson Hill Knox Eskildsen Glaser DENNY Mc Regan Wilson Lee

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING NATURAL GAS UTILITIES TO PROVIDE FOR CUSTOMER CHOICE; ALLOWING NATURAL GAS UTILITIES TO USE TRANSITION BOND FINANCING FOR TRANSITION COSTS; REQUIRING THE PUBLIC SERVICE COMMISSION TO LICENSE NATURAL GAS SUPPLIERS; ESTABLISHING RECIPROCITY FOR ALL NATURAL GAS SUPPLIERS; PROVIDING FOR UNIVERSAL SYSTEM BENEFITS PROGRAMS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required because this bill provides the public service commission with rulemaking authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 6] may be cited as the "Natural Gas Utility Restructuring and Customer Choice Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 6], the following definitions apply:

(1) "Customer" means a natural gas customer or consumer of natural gas supply or natural gas transmission facilities, storage facilities, or distribution facilities.

(2) "Distribution facilities" means those facilities that are not transmission facilities:

(a) by and through which natural gas is received from a transmission services provider and transmitted to the customer; and

(b) operated by a distribution services provider.

(3) "Distribution services provider" means a person controlling or operating distribution facilities for distribution of natural gas to the public.

(4) "Natural gas supplier" means a person, including aggregators, market aggregators, brokers, and marketers, that is offering to sell natural gas to retail customers in the state of Montana.

(5) "Natural gas utility" means a utility regulated by the commission on [the effective date of this act] that provides natural gas services to the public.

(6) "Open access" means that a natural gas utility has made its transmission facilities, storage facilities, or distribution facilities available to all natural gas suppliers, transmission services providers, distribution services providers, and customers on a nondiscriminatory and comparable basis.

(7) "Storage facilities" means those facilities that are owned, controlled, or operated by a person offering storage service for natural gas and generally means any underground reservoir suitable for the storage of natural gas and the facilities used to inject and withdraw natural gas into and out of that underground reservoir.

(8) "Transition costs" means:

(a) a natural gas utility's net, verifiable production- and gathering-related costs, including costs of capital, that become unrecoverable as a result of customer choice and open access. These costs include but are not limited to:

(i) regulatory assets and deferred charges that exist as a result of current regulatory practices and that may be accounted for up to the point in time that the commission issues a final order in a transition plan filing docket, including all costs, expenses, and fees related to the issuance of transition bonds;

(ii) the above-market costs associated with existing gas supply commitments;

(iii) other natural gas utility investments rendered uneconomic as a result of implementation of customer choice and open access;

(iv) the costs associated with renegotiation or buyout of existing natural gas purchase contracts; and

(v) the costs associated with the issuance of any related transition bonds authorized by the commission pursuant to [section 3].

(b) the costs of refinancing or retiring debt or equity capital of the natural gas utility and associated federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

(9) "Transmission facilities" means those facilities owned, controlled, and operated by a transmission services provider that are used to transport natural gas from a gathering line or storage facility to a distribution facility or other storage facility.

(10) "Transmission services provider" means a person controlling or operating transmission facilities.

(11) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of universal system benefits program costs.

(12) "Universal system benefits programs" means public purpose programs for cost-effective local energy conservation, low-income weatherization, and low-income energy bill assistance.

NEW SECTION. **Section 3. Customer choice.** (1) A natural gas utility may voluntarily offer its customers choice of natural gas supplier and provide open access to its transmission facilities, storage facilities, or distribution facilities.

(2) If a customer choice offering results in transition costs and the commission allows those transition costs to be recovered in separate identifiable charges to customers, then the natural gas utility must have the opportunity but not the obligation to finance the fixed transition costs and related financing costs using transition cost financing as provided for in [sections 3 and 31 of Senate Bill No. 390].

NEW SECTION. **Section 4. Licensing -- procedures -- commission rulemaking.** (1) The commission shall license natural gas suppliers and enforce licensing provisions pursuant to this section.

(2) A natural gas supplier shall file an application with and obtain a license from the commission to sell natural gas to customers in the state of Montana.

(3) A licensee shall:

(a) provide copies of all license applications to the commission and to all distribution services providers; and

(b) update information and file annual reports.

(4) A license application becomes effective 30 days after filing with the commission, unless the commission rejects the application during that period. If the commission rejects a license application, the commission shall specify the reasons in writing and, if practical, shall identify alternative ways to overcome deficiencies.

(5) The commission shall promulgate rules requiring licensing information that identifies the licensee and ensures that the natural gas supply is provided as offered and is adequate in terms of quality, safety, and reliability.

(6) The commission may require proof of a licensee's financial integrity and a demonstration of adequate firm deliverability to meet load requirements.

(7) Pursuant to its own investigation or upon the complaint of an affected party, the commission may institute a proceeding to revoke or suspend a license of a natural gas supplier for just cause.

NEW SECTION. **Section 5. Reciprocity.** (1) All natural gas suppliers are afforded the comparable opportunity to compete.

(2) A natural gas distribution services provider or its affiliates may not use another natural gas distribution services provider's facilities in the state of Montana to sell natural gas to customers in the state of Montana unless the natural gas distribution services provider or its affiliates offer customer choice and open access to their natural gas distribution facilities.

NEW SECTION. **Section 6. Universal system benefits programs -- establishing nonbypassable rate.** (1) A natural gas utility shall implement, upon commission approval, a universal system benefits program that considers existing universal system benefits programs in the state.

(2) The commission shall establish a universal system benefits charge that either all natural gas transmission services providers or all distribution services providers, or both, in the state of Montana shall charge to all end-use customers, taking into consideration similar costs imposed in other states. The method of assessing those rates may not disproportionately burden a large transmission services provider's customers. Within the universal system benefits charge, a natural gas utility's annual funding requirement for low-income weatherization and low-income energy bill assistance is established at 0.20% of a natural gas utility's annual revenue. A natural gas utility must receive credit for its internal programs or activities that qualify as universal system benefits programs.

(3) On or before July 1, 2002, the commission shall conduct a reevaluation of the ongoing need for universal system benefits programs and annual funding requirements and shall make recommendations to the 58th legislature regarding the future need for universal system benefits programs. The determination should focus specifically on the existence of markets to provide for any of the universal system benefits programs or on whether other means for funding those universal system benefits programs have developed. These recommendations may also address how future reevaluations will be provided, if necessary.

NEW SECTION. **Section 7. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this

act].

NEW SECTION. **Section 8. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 9. Codification instruction.** [Sections 1 through 6] are intended to be codified as an integral part of Title 69, and the provisions of Title 69 apply to [sections 1 through 6].

NEW SECTION. **Section 10. Coordination instruction.** If Senate Bill No. 390 is not passed and approved or as passed and approved does not include [sections 3 and 31], then [section 3(2) of this act] is void.

NEW SECTION. **Section 11. Effective date.** [This act] is effective on passage and approval.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0396, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act allowing natural gas utilities to provide for customer choice.

ASSUMPTIONS:
1. The Public Service Commission would implement the provisions of this act with its existing resources.
2. There is no fiscal impact to the Department of Public Health and Human Services.

FISCAL IMPACT:
There is no fiscal impact to the state.

TECHNICAL NOTE:
If SB 396 intended to use the same approach as SB 390 in financing the universal system benefits programs (Section 6) it appears there is a mathematical error. Instead of .20% its is believed the figure should be .4155%. This would use the same calculations as SB 390 which incorporated recommendations from the Governor's Low Income Energy Advisory Council recommendations.

Dave Lewis 3-25-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Sen. Foster 3/25/97
MIKE FOSTER, PRIMARY SPONSOR DATE

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN DEVLIN**, on March 25, 1997, at 8:02 a.m., in Room 413.

ROLL CALL

Members Present:
Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Wm. E. "Bill" Glaser (R)
Sen. Mike Sprague (R)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Services Division
Renée Podell, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 396
Executive Action: SB 393 (DPAA)
SB 395 (Discussion only)

HEARING ON SB 396

{Tape: 1; Side: A; Approx. Time Count: .4; Comments: None.}

Sponsor: **SEN. MIKE FOSTER, SD 20, TOWNSEND**

Proponents:
Perry Cole, Montana Power Company
Dave Fisher, Public Service Commission
Mick Robinson, Governor's Office
Bob Nelson, Montana Consumer Council
John Allen, Energy West
Jim Ahrens, Montana Hospital Association
Greg Groepper, Energy Share of Montana
Jim Paladichuk, Montana/Dakota Utilities

Opponents: **None**

Opening Statement by Sponsor:

SEN. MIKE FOSTER, SD 20, TOWNSEND **EXHIBITS 1 & 2**
SEN. FOSTER: SB 396 is a natural gas restructuring and customer choice act. The purpose of this bill is to allow natural gas companies open access and to provide customer choice to all customers over a five-year transition period. The bill allows the use of transition bond financing and grants specific authority to the Public Service Commission to approve costs that result from restructuring. The bill also addresses standards of conduct to prevent anti-competitive or abusive practices. Transition costs will be reduced, resulting in lower overall rates. The bill will facilitate a settlement agreement between Montana Power Company and Montana Consumer Counseling. **SEN. FOSTER** notes on page 4, line 19 of the bill, the percentage 0.20 needs to be changed to 0.42%. There will be an amendment forthcoming to address that change. Explanation of AMENDMENTS 39601.ate (Exhibit 1): Amendments 1 and 2 are technical; amendment 3 clarifies that natural gas suppliers are licensed by the Commission; amendments 4 and 5 are technical; amendment 6 clarifies the term transmission facilities; amendment 7 is technical; amendment 8 clarifies that natural gas utilities must have Commission approval to finance fixed transition costs using transition bonds; amendment 9 addresses functional separation, code of conduct, emergency services and customer protection.

Proponents' Testimony:

Perry Cole, Montana Power Company **EXHIBITS 3 & 4**
Mr. Cole indicates the natural gas industry will continue to restructure to the residential customer level. This bill clarifies Commission authority regarding transition costs and allows for protection of smaller customers. It also allows consumers to benefit from transition bond financing and to have access to market priced natural gas. Montana Power supports this legislation.

Dave Fisher, Public Service Commission **EXHIBIT 5**
Mr. Fisher indicates the Commission supports this bill with the understanding that a number of amendments have been introduced. The Commission would prefer restructuring be made mandatory for all Montana natural gas utilities by a date certain and suggests July 1, 2000. (See proposed amendment - Exhibit 5).

Mick Robinson, Governor's Office
The Governor's Office believes the amendments are critical to this bill. The bill offers a mechanism connected with the settlement agreement and adds customer protection which is important.

Bob Nelson, Montana Consumer Council
Mr. Nelson says the Council is in unanimous agreement regarding

continued restructuring and customer choice. The Council supports this legislation.

John Allen, Energy West **EXHIBIT 6**
Mr. Allen offers an additional amendment (Exhibit 6), as proposed by the Great Falls Gas Company.

Jim Ahrens, Montana Hospital Association
Mr. Ahrens is generally in support of the concept. In Eastern Montana the gas purchasing system saves hospitals about 50% of what Montana Power charges; it's a good system. They are concerned about the transition costs raising prices.

Greg Groepper, Energy Share of Montana
Mr. Groepper testifies in support of the weatherization and low income bills sections of the bill with **SEN. FOSTER'S** amendment.

Jim Paladichuk, Montana/Dakota Utilities
Montana/Dakota Utilities supports **SEN. FOSTER'S** amendment but opposes the Public Service Commission amendment.

Opponents' Testimony: **None**

Questions From Committee Members and Responses:

SEN. MACK COLE requests clarification regarding the transition costs. **Mr. Perry Cole** responds they are production costs for a system as well as regulatory assets.

SEN. BARRY STANG inquires if Energy West would still be a proponent of the bill if their amendment doesn't pass. **Mr. Allen** says yes, they would still support the bill.

SEN. WILLIAM GLASER inquires regarding the .2% established in the bill vs the .42% referenced in **SEN. FOSTER'S** opening statement and the fiscal note. **Mr. Cole** says .42% is the current figure.

SEN. GLASER asks who is responsible for the bonds in the bonding program. **Mr. Cole** indicates the bonds are secured on the Montana Power Company balance sheet. The bonds are non-recourse to the State of Montana; there is no obligation or credit impact on the State of Montana. The bonds are secured by the revenue to be collected. The Securities and Exchange Commission regulates how the accounting is done.

SEN. MIKE SPRAGUE inquires regarding the difference between the years 2000 and 2002 relative to time certain. **Mr. Fisher** would like to see the choice given to the customers as soon as possible. **SEN. SPRAGUE** asks **SEN. FOSTER** if he would agree with changing to the year 2000. **SEN. FOSTER** indicates the question is whether the bill will be mandatory or voluntary. He would prefer to have it be voluntary, review in two years and make it mandatory if necessary.

SEN. DOROTHY ECK asks how much are we looking at for this transition bond and when would it be paid off. **Mr. Cole** responds that will be determined by the Public Service Commission. The current life of regulatory assets is about 19 years. The average life of the bonds might be about ten years.

CHAIRMAN GERRY DEVLIN inquires if **Mr. Allen** has had a chance to review the other amendments offered this morning. **Mr. Allen** says "very briefly." Energy West will support **SEN. FOSTER'S** amendments. They have not had time to review the others enough to take a position on them.

SEN. FRED VAN VALKENBURG asks what's different about the natural gas bill from the electric utility bill - why is the Montana Consumer Council testifying on this one and didn't on that one. **Mr. Nelson** indicates we are quite a ways down the road on restructuring the gas industry and have been involved in that process.

SEN. VAN VALKENBURG queries **SEN. FOSTER** regarding amendment #9 - functional separation - does that have any property tax consequences. **SEN. FOSTER** responds there can be property tax ramification for all we do; this bill doesn't address those issues. **SEN. VAN VALKENBURG** comments it's much less likely assets would not be centrally assessed. **SEN. FOSTER** says he might be correct, but that the question should be addressed to **Mr. Cole**. **SEN. FOSTER** notes the fiscal note doesn't indicate a tax effect, but that's not to say that there wouldn't be one. **SEN. VAN VALKENBURG** inquires regarding this issue of **Mr. Cole**. **Mr. Cole** explains the functional separation requirement is related to keeping an open access system fair. Regarding the tax consequences, he agrees with **SEN. FOSTER**; there is a possibility of a property tax consequence.

SEN. VAN VALKENBURG inquires of **Mr. Robinson** regarding the tax consequences. **Mr. Robinson** states it would depend on the organizational structure. The functional separation of the activities will not directly impact the property taxation. Production and gathering are separated from transmission and distribution - the majority of the property value is connected with transmission and distribution; those will continue to be centrally assessed as they cross county lines.

SEN. VAN VALKENBURG requests **Mr. Cole** break down the separation in Montana Power Company. **Mr. Cole** indicates $200 million is transmission and distribution out of approximately $250 million. Of the $60 million in gas production, $20 million resides in Canada, $40 million resides in Montana.

SEN. VAN VALKENBURG queries **SEN. FOSTER** if he would object to an amendment to the bill requesting the Revenue Oversight Committee look at the tax consequences of this between now and the next Session. **SEN. FOSTER** has no objection to such an amendment.

EXHIBIT 1
DATE 3/25/97
SB 396

Amendments to Senate Bill No. 396
1st Reading Copy

Requested by Senator Foster

For the Committee on Taxation

Prepared by Todd Everts
March 24, 1997

1. Title, line 6.
Following: "COSTS;"
Insert: "ALLOWING FOR FUNCTIONAL SEPARATION AND CONSUMER PROTECTION;"

[EXPLANATION: technical -- title changed to reflect addition of new section 4]

2. Page 1, line 16.
Page 1, line 19.
Page 5, lines 8 and 9.
Strike: "6"
Insert: "7"

[EXPLANATION: technical -- cross reference section number change]

3. Page 1, line 30.
Following: "marketers,"
Insert: "licensed by the commission"

[EXPLANATION: substantive -- clarifies that natural gas suppliers are licensed by the commission]

4. Page 2, line 15.
Strike: "transition"

[EXPLANATION: technical -- clarification]

5. Page 2, line 16.
Strike: "plan filing"
Following: "docket"
Insert: "addressing transition costs"

[EXPLANATION: technical -- clarification]

6. Page 2, line 29.
Strike: "or other"
Insert: ","
Following: "storage facility"
Insert: ", or end-use customer"

[EXPLANATION: substantive -- clarifies that the term "transmission facilities" includes those facilities that are used to transport natural gas to the end-use customers]

7. Page 3, line 9.
Strike: "and"
Insert: ","
Strike: "allows"
Insert: "may allow"

[EXPLANATION: technical -- clarification]

8. Page 3, line 10.
Strike: ", then"
Insert: ". Upon commission approval,"

[EXPLANATION: substantive -- clarifies that the natural gas utility must have commission approval to fiance fixed transition costs using transition bonds.]

9. Page 3.
Following: line 12
Insert: " NEW SECTION. **Section 4. Functional separation -- code of conduct -- emergency services -- customer protection.** (1) A natural gas utility that provides customer choice and open access on its system shall:

(a) functionally separate its natural gas production and gathering from its natural gas transmission, storage, and distribution services and remove natural gas production and gathering from the rate base;

(b) adopt and comply with commission-approved standards of conduct to be included in a tariff to govern its natural gas transmission, storage, and distribution services; and

(c) provide emergency natural gas supply and related services to the extent necessary to maintain the operational integrity of the transmission system as determined by the commission.

(2) The commission shall develop standards that protect consumers and natural gas suppliers from anticompetitive and abusive practices.

(3) [Sections 1 through 7] do not reduce or otherwise change the authority of the commission to review the prudence of natural gas purchases made by a natural gas utility for its customers that do not have a choice or that have not made a choice of natural gas suppliers or have not been assigned a natural gas supplier."
Renumber: subsequent sections

[EXPLANATION: substantive -- inserts a new section that provides for natural gas utility functional separation, code of conduct to govern services; requires the commission to determine emergency services needs; requires the commission to develop standards that protect customers; and qualifies that this act does not reduce or change the authority of the commission to review the prudence of gas purchases for customers that do not have a choice of a natural gas supplier.]

10. Page 4, line 16.
Following: "consideration"
Insert: "the current level of expenditure by the natural gas utility, cost-effectiveness, and"

[EXPLANATION: substantive -- in determining the universal benefits charge the commission, with this amendment will take into consideration "the current level of expenditure by the natural gas utility, cost-effectiveness, and" similar costs imposed in other states.]

BILL NO. SB 396

INTRODUCED BY Taylor Simon Thomas Hind Beaudry Hertel Knox Richardson Grimes DENNY McCann Ryan Wilson

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING NATURAL GAS UTILITIES TO PROVIDE FOR CUSTOMER CHOICE; ALLOWING NATURAL GAS UTILITIES TO USE TRANSITION BOND FINANCING FOR TRANSITION COSTS; ALLOWING FOR FUNCTIONAL SEPARATION AND CONSUMER PROTECTION; REQUIRING THE PUBLIC SERVICE COMMISSION TO LICENSE NATURAL GAS SUPPLIERS; ESTABLISHING RECIPROCITY FOR ALL NATURAL GAS SUPPLIERS; PROVIDING FOR UNIVERSAL SYSTEM BENEFITS PROGRAMS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required because this bill provides the public service commission with rulemaking authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through ~~6~~ 7] may be cited as the "Natural Gas Utility Restructuring and Customer Choice Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through ~~6~~ 7], the following definitions apply:

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(2) "Distribution facilities" means those facilities that are not transmission facilities:

(a) by and through which natural gas is received from a transmission services provider and transmitted to the customer; and

(b) operated by a distribution services provider.

(3) "Distribution services provider" means a person controlling or operating distribution facilities for distribution of natural gas to the public.

(4) "Natural gas supplier" means a person, including aggregators, market aggregators, brokers, and marketers, that is offering to sell natural gas to retail customers in the state of Montana.

(5) "Natural gas utility" means a utility regulated by the commission on [the effective date of this act] that provides natural gas services to the public.

(6) "Open access" means that a natural gas utility has made its transmission facilities, storage facilities, or distribution facilities available to all natural gas suppliers, transmission services providers, distribution services providers, and customers on a nondiscriminatory and comparable basis.

(7) "Storage facilities" means those facilities that are owned, controlled, or operated by a person offering storage service for natural gas and generally means any underground reservoir suitable for the storage of natural gas and the facilities used to inject and withdraw natural gas into and out of that underground reservoir.

(8) "Transition costs" means:

(a) a natural gas utility's net, verifiable production- and gathering-related costs, including costs of capital, that become unrecoverable as a result of customer choice and open access. These costs include but are not limited to:

(i) regulatory assets and deferred charges that exist as a result of current regulatory practices and that may be accounted for up to the point in time that the commission issues a final order in a ~~transition plan filing~~ docket addressing transition costs, including all costs, expenses, and fees related to the issuance of transition bonds;

(ii) the above-market costs associated with existing gas supply commitments;

(iii) other natural gas utility investments rendered uneconomic as a result of implementation of customer choice and open access;

(iv) the costs associated with renegotiation or buyout of existing natural gas purchase contracts; and

(v) the costs associated with the issuance of any related transition bonds authorized by the commission pursuant to [section 3].

(b) the costs of refinancing or retiring debt or equity capital of the natural gas utility and associated federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

(9) "Transmission facilities" means those facilities owned, controlled, and operated by a transmission services provider that are used to transport natural gas from a gathering line or storage facility to a distribution facility or other storage facility or enclose customer.

(10) "Transmission services provider" means a person controlling or operating transmission facilities.

(11) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of universal system benefits program costs.

(12) "Universal system benefits programs" means public purpose programs for cost-effective local energy conservation, low-income weatherization, and low-income energy bill assistance.

NEW SECTION. **Section 3. Customer choice.** (1) A natural gas utility may voluntarily offer its customers choice of natural gas supplier and provide open access to its transmission facilities, storage facilities, or distribution facilities.

(2) If a customer choice offering results in transition costs ~~and~~ the commission ~~allows~~ may allow those transition costs to be recovered in separate identifiable charges to customers, ~~then~~ upon commission approval the natural gas utility must have the opportunity but not the obligation to finance the fixed transition costs and related financing costs using transition cost financing as provided for in [sections 3 and 31 of Senate Bill No. 390].

NEW SECTION. Section 4.

NEW SECTION. **Section ~~4~~ 5. Licensing -- procedures -- commission rulemaking.** (1) The commission shall license natural gas suppliers and enforce licensing provisions pursuant to this section.

(2) A natural gas supplier shall file an application with and obtain a license from the commission to sell natural gas to customers in the state of Montana.

(3) A licensee shall:

(a) provide copies of all license applications to the commission and to all distribution services providers; and

(b) update information and file annual reports.

(4) A license application becomes effective 30 days after filing with the commission, unless the commission rejects the application during that period. If the commission rejects a license application, the commission shall specify the reasons in writing and, if practical, shall identify alternative ways to overcome deficiencies.

(5) The commission shall promulgate rules requiring licensing information that identifies the licensee and ensures that the natural gas supply is provided as offered and is adequate in terms of quality, safety, and reliability.

(6) The commission may require proof of a licensee's financial integrity and a demonstration of adequate firm deliverability to meet load requirements.

(7) Pursuant to its own investigation or upon the complaint of an affected party, the commission may institute a proceeding to revoke or suspend a license of a natural gas supplier for just cause.

NEW SECTION. **Section ~~5~~ 6. Reciprocity.** (1) All natural gas suppliers are afforded the comparable opportunity to compete.

(2) A natural gas distribution services provider or its affiliates may not use another natural gas distribution services provider's facilities in the state of Montana to sell natural gas to customers in the state of Montana unless the natural gas distribution services provider or its affiliates offer customer choice and open access to their natural gas distribution facilities.

NEW SECTION. **Section ~~6~~ 7. Universal system benefits programs -- establishing nonbypassable rate.** (1) A natural gas utility shall implement, upon commission approval, a universal system benefits program that considers existing universal system benefits programs in the state.

(2) The commission shall establish a universal system benefits charge that either all natural gas transmission services providers or all distribution services providers, or both, in the state of Montana shall charge to all end-use customers, taking into consideration the current level of expenditure by the natural gas utility, similar costs imposed in other states. The method cost-effectiveness and of assessing those rates may not disproportionately burden a large transmission services provider's customers. Within the universal system benefits charge, a natural gas utility's annual funding requirement for low-income weatherization and low-income energy bill assistance is established at 0.20% of a natural gas utility's annual revenue. A natural gas utility must receive credit for its internal programs or activities that qualify as universal system benefits programs.

(3) On or before July 1, 2002, the commission shall conduct a reevaluation of the ongoing need for universal system benefits programs and annual funding requirements and shall make recommendations to the 58th legislature regarding the future need for universal system benefits programs. The determination should focus specifically on the existence of markets to provide for any of the universal system benefits programs or on whether other means for funding those universal system benefits programs have developed. These recommendations may also address how future reevaluations will be provided, if necessary.

NEW SECTION. **Section ~~7~~ 8. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this

act].

NEW SECTION. **Section ~~8~~ 9. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section ~~9~~ 10. Codification instruction.** [Sections 1 through ~~6~~ 7] are intended to be codified as an integral part of Title 69, and the provisions of Title 69 apply to [sections 1 through ~~6~~ 7].

NEW SECTION. **Section ~~10~~ 11. Coordination instruction.** If Senate Bill No. 390 is not passed and approved or as passed and approved does not include [sections 3 and 31], then [section 3(2) of this act] is void.

NEW SECTION. **Section ~~11~~ 12. Effective date.** [This act] is effective on passage and approval.

-END-

EXHIBIT 3
DATE 3/25/97
SB 396

TESTIMONY OF PERRY COLE
ON BEHALF OF THE MONTANA POWER COMPANY
IN SUPPORT OF SENATE BILL 396
NATURAL GAS UTILITY RESTRUCTURING AND CUSTOMER CHOICE ACT
MARCH 25, 1997

My name is Perry Cole and I am the vice-president of regulatory affairs and strategic business development of the Montana Power Company. I am testifying in support of Senate Bill 396, the Natural Gas Utility Restructuring and Customer Choice Act. My testimony focuses on Montana Power's goals of this legislation and the specific provisions in the Act.

The natural gas industry has been restructured for several years nationally and in Montana. Natural gas production has been deregulated since the early 1980's and the natural gas commodity market has developed to include many producers, marketers and brokers. Nationally, FERC has required interstate pipelines to separate their gas commodity sales from their pipeline transportation services. Interstate pipelines must allow all natural gas shippers, marketers and customers to have equal access to the interstate pipelines.

Montana Power opened access on its system in 1991 in response to large industrial customers' demands for access to market priced natural gas. Allowing open access has avoided bypass by these

large customers and has increased the volumes of gas flowing through the system, which helps to keep rates down for all customers.

Now the move in the Natural Gas Industry is to open access and allow customer choice for small commercial and residential customers. Several utilities around the country have conducted pilot programs and have taken steps to open their systems. Some utilities have had complete open access for natural gas customers for years.

Montana Power would like to provide the same opportunity to have access to the market gas supply to all customers. The purpose of this Bill is to provide the Commission with certain authority to protect consumers and to allow the utility to recover its costs in transitioning from a regulated gas supplier to an unregulated supplier competing in a well developed gas supply market.

Montana Power, the Montana Consumer Counsel and others recognize the benefits that will flow to customers if the utility is allowed to finance its transition costs using transition bond financing, just as electric utilities may be allowed to do. Transition bond financing will facilitate the settlement of an agreement that Montana Power and the Consumer Counsel and others

have reached in Montana Power gas restructuring filing now before the Public Service Commission. The bill allows gas utilities to finance transition costs using transition bond financing.

The bill is intended to work this way:

A natural gas utility may open access to its system and provide customers with choice. If that causes the utility to have transition costs, then the Commission may allow the utility to recover those transition costs in a separate charge. If the Commission allows transition costs, then the utility will have the opportunity to finance those transition costs using transition bond financing.

This language provides the Commission with explicit authority to approve the agreement that Montana Power and the Consumer Counsel have negotiated without concern that the Commission's authority will be questioned on appeal.

The bill sets out requirements for open access, such as providing nondiscriminatory and comparable service and following standards of conduct, approved and ordered by the Commission.

The act goes further to provide the commission with explicit authority to license natural gas providers in Montana and to require the imposition of a Universal Systems Benefits Charge,

which in the Natural Gas Industry, will primarily provide low income bill assistance and low income weatherization programs.

Finally, the bill requires reciprocity. Reciprocity is important so that natural gas distribution service providers that do not open access on their systems do not have the inequitable opportunity to sell natural gas to customers on open access systems when others are not able to sell on their closed systems.

In summary, the natural gas industry will continue to restructure to the residential customer level. This bill clarifies specific Commission authority regarding transitions costs and allows the Commission to protect smaller customers from any harm that may result from a competitive market. Importantly, the bill also allows consumers to benefit from transition bond financing and to have access to market priced natural gas.

EXHIBIT 4
DATE 3/25/97
SB 396

THE MONTANA POWER COMPANY

Natural Gas Utility Restructuring and Customer Choice Act

Senate Bill 396 Hearing
March 25, 1997

Natural Gas Restructuring

- The Natural Gas Industry has been restructured for several years nationally and in Montana.
- Gas transmission systems have been open and there is a well developed gas supply commodity market.
- Nationwide trend is for all customers to have gas supply choice.
- MPC's larger customers have had choice of gas supply since 1991.
- MPC's remaining customers are demanding retail access.

Key Elements

- Utilities may offer customers choice of natural gas supply.
- Commission has discretion over transition costs.
- Allows transition costs to be financed through Transition Cost Financing (Revenue Bonds).
- Consumer Protection through Commission oversight and gas supplier licensing.
- Reciprocity Provisions.
- Public purpose programs provided for through the establishment of a nonbypassable rate.

MPC's Current Natural Gas **Settlement and the Bill**

- MPC near settlement on its gas restructuring case.
- Settlement is dependent on gas legislation, in particular, revenue bonds.
- Settlement addresses all details of offering gas customers choice:
  - Timing of Choice
  - Pilot Programs
  - Obligations of Utility versus Suppliers
- The settlement resolves transition costs (stranded cost) issue with the Montana Consumer Counsel and Others in the case.

Moving the Natural Gas Industry **Forward in Montana**

- Montana's Natural Gas Restructuring Bill:
  - For the utilities that offer open access, it provides their customers with choice of natural gas supply.
  - Provides the Commission with certain consumer protection authority.
  - Allows utilities to recover its costs as it transitions to the unregulated gas supply market.
  - Should be approved by the Montana Legislature as it is in the best interests of Montanans.

EXHIBIT 5
DATE 3/25/97
SB 396

Testimony of Dave Fisher, Chairman, Public Service Commission

Proponent, Senate Bill 396

March 25, 1997

Good morning. I am Dave Fisher, Chairman of the Public Service Commission. On behalf of the Commission I thank you for the opportunity to appear before the Taxation Committee as a proponent of Senate Bill 396, the "Natural Gas Utility Industry Restructuring and Customer Choice Act."

The Commission supports the bill, with the understanding that a number of amendments have already been introduced which improve it. The Commission would prefer that the bill make natural gas utility restructuring mandatory for all Montana natural gas utilities by a date certain and suggests July 1, 2000, as a workable date. The Commission requests that this Committee consider such an amendment as being in the public interest (a suggested amendment is attached to this testimony).

The Commission will be following this process carefully. We want the best possible outcome for Montanans. We are confident that the legislature wants the same.

Again, thank you for this opportunity. The Commission and its staff will be available to answer questions and assist you at any time.

Attachment to Testimony of Dave Fisher, Chairman PSC

PSC Suggested Amendment to SB 396 (1st Reading Copy)

1. Page 2, line 12.
Following: "as provided for in [sections 3 and 31 of Senate Bill No. 390]."
Insert: (3) Each natural gas utility that has not by that time voluntarily offered its customers choice of natural gas supplier and open access to its transmission facilities, storage facilities, and distribution facilities shall, at least 9 months prior to July 1, 2000, file with the commission a plan to do so.

EXHIBIT 6
DATE 3/25/97
SB 396

PROPOSED AMENDMENT TO SB 396

AMENDMENT PROPOSED BY GREAT FALLS GAS COMPANY

NEW SECTION. Section 1. **Optional performance - based regulation of gas utilities.** For the purposes of this section and (section 2) "gas utility" means any public utility engaged in the business of furnishing gas service.

(1) The commission may authorize, upon application or its own motion, after giving notice and conducting a hearing as provided in 69-3-303, any gas utility to implement an optional form of rate regulation utilizing a performance - based ratemaking methodology.

(2) Performance - based forms of regulation may include, but are not limited to, the use of revenue indexing, price indexing, ranges of authorized return, gas cost indexing, and innovative utilization of utility - related assets and activities such as system sales of excess gas supplies, released of upstream pipeline capacity, and performance of billing services for other gas suppliers. A performance - based form of regulation may include a mechanism for automatic annual adjustments to revenues to prices to reflect changes in any index adopted for the implementation of the performance - based form of regulation.

NEW SECTION. **Section 2.** (1) The commission may approve a performance - based ratemaking methodology if it finds that the methodology:

(a) preserves adequate service to all classes of customers, including transportation - only customers;

(b) does not unreasonably prejudice or disadvantage any class of gas utility users;

(c) provides incentives for improved performance by the gas utility in of

its public duties;

(d) results in rates that are not excessive; and

(e) is in the public interest.

(2) If the commission approves a gas utilities application for a performance - based form of regulation with modifications, the gas utility may, at its option, withdraw its application and continue to be regulated under the form of regulation that existed immediately prior to the filing of the application.

(3) The commission may, after giving notice and conducting a hearing as provided in 69-3-303, after, amend, revoke, or authorize a gas utility to discontinue a performance - based form of regulation previously authorized under this section if the commission finds that:

(a) gas service to one or more classes of customers has deteriorated or will deteriorate;

(b) any class of gas utility customer is being unreasonably prejudiced or disadvantaged;

(c) the performance-based form of regulation is not or will not provide reasonable incentives for improved performance by a gas utility in the performance of its public duties;

(d) rates are excessive compared to a gas utilities' cost of service;

(e) terms ordered by the commission in connection with the approval of gas of utility's implementation of a performance-based form of regulation have been violated; and

(f) the performance-based form of regulation is no longer in the public interest.

(4) The commission shall prescribe rules for monitoring a gas utility that has implemented a performance-based form of regulation to ensure that the gas utility is in compliance with the requirements of this section.

NEW SECTION. **Section 3. (standard) Codification instruction.** (sections 1 and 2) are intended to be codified as an integral part of Title 69, chapter 3, part 3, and the provisions of Title 69,chapter 3, part 3, apply to (sections 1 and 2)

Closing by Sponsor:

SEN. FOSTER expresses appreciation to those who testified in support of the bill. He indicates the Committee will deal with the amendments in Executive Session. He is pleased with the bill and recognizes the efforts of those who worked on this legislation to give consumers a choice. He urges passage of the bill.

EXECUTIVE ACTION ON SB 393

Note: **SEN. DOROTHY ECK** is excused.
{Tape: 1; Side: B; Approx. Time Count: 9.1; Comments: None.}

MOTION: SEN. MACK COLE MOVED AMENDMENTS 39301.ajm EXHIBIT 7

EXPLANATION OF AMENDMENTS 39301.ajm
SEN. MACK COLE explains this amendment gives an extra boost to those counties that have lost population during one of the last five years.

EXHIBIT 8

Jeff Martin points out the change in population would be over a five year period, referencing Exhibit 8.

DISCUSSION:

SEN. MIKE SPRAGUE believes the amendment will hurt the bill overall because it's vague. **SEN. COLE** remarks it ties back into the rest of the bill.

CHAIRMAN GERRY DEVLIN asks for clarification on the correlation between the population growth and the credit. **SEN. COLE** explains that those counties that have lost population are those that are hurting the most as far as bringing jobs in. This promotes economic growth in those counties.

SEN. WILLIAM GLASER asks if this boost is on top of the other two boosts. **SEN. COLE** says it would be instead of $550 which they would get now, they would get $650, the same as if somebody brings in a computer-type business.

Jeff Martin explains there are three mutually exclusive credits contained in this bill.

SEN. BOB DEPRATU inquires if only one of the credits would apply. **Mr. Martin** agrees.

VOTE: MOTION TO ADOPT AMENDMENTS 39301.ajm FAILS 3-5 with SEN. COLE, SEN. DEPRATU and SEN. VAN VALKENBURG voting yes and SEN. ECK not voting.

CHAIRMAN GERRY DEVLIN requests clarification on page 2, line 20 regarding $23,000 gross.

MONTANA SENATE
1997 LEGISLATURE
TAXATION COMMITTEE

ROLL CALL DATE 3-25-97

NAME	PRESENT	ABSENT	EXCUSED
MACK COLE	✓		
BOB DE PRATU	✓		
DOROTHY ECK	✓		
BILL GLASER	✓		
MIKE SPRAGUE	✓		
BARRY "SPOOK" STANG	✓		
FRED VAN VALKENBURG	✓		
MIKE FOSTER, VICE CHAIRMAN	✓		
GERRY DEVLIN, CHAIRMAN	✓		

SEN:1997
wp.rollcall.man
CS-09

DATE 3-25-97

SENATE COMMITTEE ON TAXATION

BILLS BEING HEARD TODAY: SB 396

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
DAVE FISHER	PSC CHAIRMAN	SB396	X	
Bob Nelson	Consumer Counsel	SB396	X	
Perry Cole	Montana Power	SB396	X	
Ed BARTLETT	MONTANA POWER	SB396	X	
Dennis Burr	MONTAX	396	✓	
John Allen	Energy West	396	✓	
Mick Robinson	Governor's Office	396	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

CHAIRMAN DEVLIN requests all proposed amendments be turned in to Jeff Martin so the Committee can consider the bill either tomorrow or the next day.

Further, the Committee began to take up SB 354 for Executive Action but postponed doing so until the proper set of amendments could be distributed. During the pause, the Committee considered SB 396 as follows:

EXECUTIVE ACTION: SB 396

{Tape: 1; Side: B; Approx. Time Count: 20.5; Comments: None.}

MOTION: SEN. MIKE FOSTER MOVED SB 396 DO PASS.

MOTION: SEN. FOSTER MOVED AMENDMENTS 39601.ate. **EXHIBIT 4**

EXPLANATION OF AMENDMENTS: **SEN. FOSTER**
The amendments reflect more settlements that have been realized between Consumer Council and Montana Power Company. The Public Service Commission is allowed some oversight protecting consumers from anti-competitive and abuse practices. There is important language for consumers throughout this set of amendments.

VOTE: MOTION CARRIED 8-0 with SEN. ECK not voting.

MOTION: SEN. FOSTER MOVED AMENDMENT 39602.ate. **EXHIBIT 5**

EXPLANATION OF AMENDMENT: **SEN. FOSTER**
Technical amendment, page 4, line 19 changing the percent from 0.20% to .042% relative to low income weatherization and energy assistance.

VOTE: MOTION CARRIED UNANIMOUSLY.

MOTION: SEN. VAN VALKENBURG MOVED AMENDMENTS 39605.ate.
EXHIBIT 6

EXPLANATION OF AMENDMENT: **SEN. VAN VALKENBURG**
Amendment puts in a section calling for a tax revenue analysis by the Revenue Oversight Committee in a report to the next Legislature.

VOTE: MOTION CARRIED UNANIMOUSLY.

MOTION: SEN. VAN VALKENBURG MOVED AMENDMENTS 39604.ate
EXHIBIT 7

EXPLANATION OF AMENDMENT: **SEN. VAN VALKENBURG**
Amendment requires each natural gas utility to offer choice of supplier to its customers by July 1, 2000, or to file a plan with the Public Service Commission to provide that choice.

DISCUSSION: **SEN. FOSTER** opposes the amendments; would like to see how a voluntary approach works in the interim. **SEN. GLASER**

comments regarding the stand of the Montana Dakota Utilities (MDU). **CHAIRMAN DEVLIN** questions the language "prior to July 1, 2000." **SEN. FOSTER** responds by indicating the language is in current statute.

VOTE: MOTION FAILED 3-6 with SEN. ECK, SEN. STANG and SEN. VAN VALKENBURG voting yes.

BRIEF DISCUSSION OF AMENDMENTS PROPOSED BY THE GREAT FALLS GAS COMPANY (no motion, no action).

MOTION/VOTE: SEN. FOSTER MOVED SB 396 AS AMENDED. MOTION CARRIED 8-1 with SEN. STANG voting no.

{Tape: 1; Side: B; Approx. Time Count: 34.5; Comments: None.}

EXECUTIVE ACTION ON SB 354

{Tape: 1; Side: B; Approx. Time Count: 35.0; Comments: This bill is referred to as the "Cabaret Bill." Executive Action on this bill continued on Tape 2, Sides A and B.}

AMENDMENTS 35410.ajm **EXHIBIT 8**

EXPLANATION OF AMENDMENTS AND RESPONSES TO QUESTIONS REGARDING AMENDMENTS: Jeff Martin, Legislative Services Division.

{Tape: 1; Side: B; Approx. Time Count: 38.5; Comments: None.}

SEN. WILLIAM GLASER asks Jeff Martin if both **SEN. MIGNON WATERMAN (Bill Sponsor)** and **Mr. Mark Staples (representing Tavern Owners)** have seen and approved these amendments. **Mr. Martin** responds they have.

The new set of amendments reflects agreement on some of the previously segregated amendments which are now incorporated into this set of amendments.

CONTINUING EXPLANATION OF AMENDMENTS AND RESPONSES TO QUESTIONS: Jeff Martin, Legislative Services Division.

{Tape: 2; Side A; Approx. Time Count: 0; Comments: Tape 2 inserted at 9:30 a.m.}

The amendments set forth the qualifications for an applicant; separate for individual applicant or a corporate applicant. There is also a prohibition for a restaurant licensed for sale of beer and wine or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location. There is a requirement for the Department of Justice to make an investigation of an applicant. The allocation of beer and wine licenses are based on the quota system. Provide for a lottery on the initial issuance of licenses and if there is an

EXHIBIT 4
DATE 3/26/97
SB 396

Amendments to Senate Bill No. 396
1st Reading Copy

Requested by Senator Foster

For the Committee on Taxation

Prepared by Todd Everts
March 24, 1997

1. Title, line 6.
Following: "COSTS;"
Insert: "ALLOWING FOR FUNCTIONAL SEPARATION AND CONSUMER PROTECTION;"

[EXPLANATION: technical -- title changed to reflect addition of new section 4]

2. Page 1, line 16.
Page 1, line 19.
Page 5, lines 8 and 9.
Strike: "6"
Insert: "7"

[EXPLANATION: technical -- cross reference section number change]

3. Page 1, line 30.
Following: "marketers,"
Insert: "licensed by the commission"

[EXPLANATION: substantive -- clarifies that natural gas suppliers are licensed by the commission]

4. Page 2, line 15.
Strike: "transition"

[EXPLANATION: technical -- clarification]

5. Page 2, line 16.
Strike: "plan filing"
Following: "docket"
Insert: "addressing transition costs"

[EXPLANATION: technical -- clarification]

6. Page 2, line 29.
Strike: "or other"
Insert: ","
Following: "storage facility"
Insert: ", or end-use customer"

[EXPLANATION: substantive -- clarifies that the term "transmission facilities" includes those facilities that are used to transport natural gas to the end-use customers]

7. Page 3, line 9.
Strike: "and"
Insert: ","
Strike: "allows"
Insert: "may allow"

[EXPLANATION: technical -- clarification]

8. Page 3, line 10.
Strike: ", then"
Insert: ". Upon commission approval,"

[EXPLANATION: substantive -- clarifies that the natural gas utility must have commission approval to fiance fixed transition costs using transition bonds.]

9. Page 3.
Following: line 12
Insert: " NEW SECTION. **Section 4. Functional separation -- code of conduct -- emergency services -- customer protection.** (1) A natural gas utility that provides customer choice and open access on its system shall:

(a) functionally separate its natural gas production and gathering from its natural gas transmission, storage, and distribution services and remove natural gas production and gathering from the rate base;

(b) adopt and comply with commission-approved standards of conduct to be included in a tariff to govern its natural gas transmission, storage, and distribution services; and

(c) provide emergency natural gas supply and related services to the extent necessary to maintain the operational integrity of the transmission system as determined by the commission.

(2) The commission shall develop standards that protect consumers and natural gas suppliers from anticompetitive and abusive practices.

(3) [Sections 1 through 7] do not reduce or otherwise change the authority of the commission to review the prudence of natural gas purchases made by a natural gas utility for its customers that do not have a choice or that have not made a choice of natural gas suppliers or have not been assigned a natural gas supplier."
Renumber: subsequent sections

[EXPLANATION: substantive -- inserts a new section that provides for natural gas utility functional separation, code of conduct to govern services; requires the commission to determine emergency services needs; requires the commission to develop standards that protect customers; and qualifies that this act does not reduce or change the authority of the commission to review the prudence of gas purchases for customers that do not have a choice of a natural gas supplier.]

10. Page 4, line 16.
Following: "consideration"
Insert: "the current level of expenditure by the natural gas utility, cost-effectiveness, and"

[EXPLANATION: substantive -- in determining the universal benefits charge the commission, with this amendment will take into consideration "the current level of expenditure by the natural gas utility, cost-effectiveness, and" similar costs imposed in other states.]

EXHIBIT 5
DATE 3/26/97
SB 396

Amendments to Senate Bill No. 396
1st Reading Copy

Requested by Senator Foster
For the Committee on Taxation

Prepared by Todd Everts
March 25, 1997

1. Page 4, line 19.
Strike: "0.20%"
Insert: "0.42%"

5

EXHIBIT 6
DATE 3/26/97
SB 396

Amendments to Senate Bill No. 396
1st Reading Copy

Requested by Senator VanValkenburg
For the Committee on Taxation

Prepared by Todd Everts
March 25, 1997

1. Title, line 7.
Following: the second "SUPPLIERS;"
Insert: "REQUIRING THE REVENUE OVERSIGHT COMMITTEE TO CONDUCT A TAX REVENUE ANALYSIS AND REPORT TO THE 56TH LEGISLATURE;"

2. Page 4.
Following: line 27
Insert: "NEW SECTION. **Section 7. Tax revenue analysis.** (1) The revenue oversight committee, as provided for in 5-18-102, shall analyze the amount of state and local tax revenue derived from previously regulated natural gas suppliers that will enter the competitive market and shall report to the legislature on how revenue to the state or local government is changed by restructuring and competition.
(2) On or before November 30, 1998, the revenue oversight committee shall recommend to the 56th legislature legislative changes to address the establishment of comparable state and local taxation burdens on all market participants in the supply of natural gas."
Renumber: subsequent sections

EXHIBIT 1
DATE 3/26/97
SB 396

Amendments to Senate Bill No. 396
1st Reading Copy

Requested by Public Service Commission
For the Committee on Taxation

Prepared by Todd Everts
March 25, 1997

1. Page 3.
Following: line 12
Insert: "(3) Each natural gas utility that has not by at least 9 months prior to July 1, 2000, offered its customers choice of a natural gas supplier and open access to its transmission facilities, storage facilities, and distribution facilities shall file a plan with the commission to provide that choice."

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:
We, your committee on Taxation having had under consideration Senate Bill 396 (first reading copy -- white), respectfully report that Senate Bill 396 be amended as follows and as so amended do pass.

Signed: _____
Senator Gerry Devlin, Chair

That such amendments read:

1. Title, line 6.
Following: "COSTS;"
Insert: "ALLOWING FOR FUNCTIONAL SEPARATION AND CONSUMER PROTECTION;"

2. Title, line 7.
Following: the second "SUPPLIERS;"
Insert: "REQUIRING THE REVENUE OVERSIGHT COMMITTEE TO CONDUCT A TAX REVENUE ANALYSIS AND REPORT TO THE 56TH LEGISLATURE;"

3. Page 1, line 16.
Page 1, line 19.
Page 5, lines 8 and 9.
Strike: "6"
Insert: "8"

4. Page 1, line 30.
Following: "marketers,"
Insert: "licensed by the commission"

5. Page 2, line 15.
Strike: "transition"

6. Page 2, line 16.
Strike: "plan filing"
Following: "docket"
Insert: "addressing transition costs"

7. Page 2, line 29.
Strike: "or other"
Insert: ","
Following: "storage facility"
Insert: ", or end-use customer"

Amd. Coord.
Sec. of Senate

8. Page 3, line 9.
Strike: "and"
Insert: ","
Strike: "allows"
Insert: "may allow"

9. Page 3, line 10.
Strike: ", then"
Insert: ". Upon commission approval,"

10. Page 3.
Following: line 12
Insert: " NEW SECTION. **Section 4. Functional separation -- code of conduct -- emergency services -- customer protection.** (1) A natural gas utility that provides customer choice and open access on its system shall:

(a) functionally separate its natural gas production and gathering from its natural gas transmission, storage, and distribution services and remove natural gas production and gathering from the rate base;

(b) adopt and comply with commission-approved standards of conduct to be included in a tariff to govern its natural gas transmission, storage, and distribution services; and

(c) provide emergency natural gas supply and related services to the extent necessary to maintain the operational integrity of the transmission system as determined by the commission.

(2) The commission shall develop standards that protect consumers and natural gas suppliers from anticompetitive and abusive practices.

(3) [Sections 1 through 8] do not reduce or otherwise change the authority of the commission to review the prudence of natural gas purchases made by a natural gas utility for its customers that do not have a choice or that have not made a choice of natural gas suppliers or have not been assigned a natural gas supplier."
Renumber: subsequent sections

11. Page 4, line 16.
Following: "consideration"
Insert: "the current level of expenditure by the natural gas utility, cost-effectiveness, and"

12. Page 4, line 19.
Strike: "0.20%"
Insert: "0.42%"

13. Page 4.
Following: line 27
Insert: "NEW SECTION. **Section 8. Tax revenue analysis.** (1) The revenue oversight committee, as provided for in 5-18-102, shall analyze the amount of state and local tax revenue derived from previously regulated natural gas suppliers that will enter the competitive market and shall report to the legislature on how revenue to the state or local government is changed by restructuring and competition.

(2) On or before November 30, 1998, the revenue oversight committee shall recommend to the 56th legislature legislative changes to address the establishment of comparable state and local taxation burdens on all market participants in the supply of natural gas."
Renumber: subsequent sections

-END-

MONTANA SENATE
1997 LEGISLATURE
TAXATION COMMITTEE

ROLL CALL DATE 3/26/97

NAME	PRESENT	ABSENT	EXCUSED
MACK COLE	✓		
BOB DE PRATU	✓		
DOROTHY ECK	✓		
BILL GLASER	✓		
MIKE SPRAGUE	✓		
BARRY "SPOOK" STANG	✓		
FRED VAN VALKENBURG	✓		
MIKE FOSTER, VICE CHAIRMAN	✓		
GERRY DEVLIN, CHAIRMAN	✓		

SEN:1997
wp.rollcall.man
CS-09

MONTANA SENATE
1997 LEGISLATURE
TAXATION COMMITTEE
ROLL CALL VOTE

DATE 3/26/97 BILL NO. SB 396 NUMBER

MOTION: Adopt Amend # 39604

NAME	AYE	NO
GERRY DEVLIN, CHAIRMAN		✓
MACK COLE		✓
BOB DE PRATU		✓
DOROTHY ECK	✓	
BILL GLASER		✓
MIKE SPRAGUE		✓
BARRY "SPOOK" STANG	✓	
FRED VAN VALKENBURG	✓	
MIKE FOSTER, VICE CHAIRMAN		✓
	3	6

SEN:1997
wp:rlclvote.man
CS-11

Melissa Case, Hotel and Restaurant Employees Union. EXHIBIT 5 AND 6.
{Tape: 1; Side: 1; Approx. Time Count: 38.4; Comments: None.}

Opponents' Testimony: None.

Questions From Committee Members and Responses:
{Tape: 1; Side: 1; Approx. Time Count: 40.3; Comments: None.}

Closing by Sponsor: **Senator Waterman** closed. **Rep. Hibbard** to carry.
{Tape: 1; Side: 2; Approx. Time Count: 35.8; Comments: None.}

EXECUTIVE ACTION ON SB 354

Motion: **Rep. Tropila** moved do concur SB 354.
{Tape: 1; Side: 2; Approx. Time Count: 43.7; Comments: None.}

Motion/Vote: **Rep. Squires** moved to adopt Waterman amendments. Motion carried unanimously.
{Tape: 1; Side: 2; Approx. Time Count: 44.0; Comments: None.}

Motion/Vote: **Rep. Tropila** moved do concur as amended SB 354.
{Tape: 2; Side: 1; Approx. Time Count: .4; Comments: None.}

Discussion:
{Tape: 2; Side: 1; Approx. Time Count: 1.2; Comments: None.}

Vote: Motion carried 15-4. **Reps. Prouse, Devaney, Barnett and Trexler voted** no.
{Tape: 2; Side: 1; Approx. Time Count: 8.1; Comments: None.}

HEARING ON SB 396

Opening Statement by Sponsor: **Senator Mike Foster,** S. D. 20, introduced the bill. **EXHIBIT 7.**
{Tape: 2; Side: 1; Approx. Time Count: 8.3; Comments: None.}

Proponents' Testimony:
Perry Cole, Montana Power Co. EXHIBIT 8 AND 9.
{Tape: 2; Side: 1; Approx. Time Count: 16.3; Comments: None.}

John Alkey, Montana Dakota Utilities
{Tape: 2; Side: 1; Approx. Time Count: 21.6; Comments: None.}

Nancy Mccaffree, Public Service Commission. EXHIBIT 10.
{Tape: 2; Side: 1; Approx. Time Count: 23.7; Comments: None.}

Sheila Rice, Great Falls Gas Co. EXHIBIT 11.
{Tape: 2; Side: 1; Approx. Time Count: 25.3; Comments: None.}

Jan Rehberg, Crowley Law Firm
{Tape: 2; Side: 1; Approx. Time Count: 27.9; Comments: None.}

Jim Ahrens, MT Hospital Assn.
{Tape: 2; Side: 1; Approx. Time Count: 28.9; Comments: None.}

Bob Nelson, MT Consumer's Council.
{Tape: 2; Side: 1; Approx. Time Count: 31.9; Comments: None.}

Opponents' Testimony: None.

Questions From Committee Members and Responses:
{Tape: 2; Side: 1; Approx. Time Count: 32.8; Comments: None.}

Closing by Sponsor: **Rep. Foster** waived closing.

EXECUTIVE ACTION ON SB 396

Motion: **Rep. Pavlovich** moved do concur SB 396.
{Tape: 2; Side: 2; Approx. Time Count: 31.5; Comments: None.}

Motion/Vote: **Rep. Pavlovich** moved to amend by removing Subsection 3 of Section 3. Motion passed 18-1. **Ewer** voted no.

Motion/Vote:**Rep. Pavlovich** moved do concur as amended. Motion carried 18-1. **Rep. Ewer** voted no.

EXHIBIT 7
DATE 4/7/97
SB 396

INTEROFFICE MEMORANDUM

TO: SENATOR MIKE FOSTER
CC: REPRESENTATIVE JOHN COBB
FROM: MARTIN JACOBSON, PSC STAFF ATTORNEY Martin Jacobson
DATE: APRIL 3, 1997

RE: Information on Natural Gas Gathering

Relating to the natural gas gathering questions raised by Senators Jergeson and Jenkins during the April 2, 1997, 2nd reading of SB396 and responding to your subsequent request for information, the following might be helpful:

1. As Montana law exists today the PSC does not have authority to regulate natural gas gathering and therefore has not regulated it. The PSC has issued at least two declaratory rulings on this point.

2. In Montana, natural gas gathering has historically been associated with natural gas production (which the PSC also does not have authority to regulate) rather than natural gas transmission, distribution, or supply (which the PSC does have authority to regulate).

3. Present PSC regulation only touches upon natural gas gathering in an incidental way. If a public utility has natural gas production (and gathering) in rate base that production is rate base rate of return regulated (part of the utility's cost of service). However, the "rates" for the production (and gathering) component, have not been regulated.

4. Early in this legislative session Representative Cobb introduced HB50 in an effort to extend PSC jurisdiction to natural gas gathering. The impetus for the bill apparently is a concern by natural gas royalty owners that unregulated natural gas gathering costs may unfairly erode royalty payments which are based on a percentage of the price of natural gas delivered minus the costs to deliver it (gathering is one of these "costs"). HB50 generated strong support and strong opposition, amendments were offered and considered, eventually it was tabled in committee.

You have also asked whether regulation of gathering is in the scope of restructuring. In my opinion regulation of gathering is not, inherently or of necessity, within the scope of restructuring (deregulation of supply). Regulation of gathering is a separate aspect of natural gas operations. It is an independent "study" in and of itself. Gathering is associated with production; production is associated with supply. Deregulation of supply is the purpose of restructuring. Therefore, in at least one sense regulation of gathering might not even be entirely consistent with the restructuring theme.

EXHIBIT 10
DATE 4/7/97
SB 396

Testimony of Nancy McCaffree, Vice-Chair, Public Service Commission

Proponent, Senate Bill 396

April 7, 1997

Good morning. I am Nancy McCaffree, Vice-Chair of the Public Service Commission. On behalf of the Commission I thank you for the opportunity to appear before the Appropriations Committee as a proponent of Senate Bill 396, the "Natural Gas Utility Industry Restructuring and Customer Choice Act."

The Commission supports the bill as approved by the Senate. The Commission would prefer that the bill make natural gas utility restructuring mandatory for all Montana natural gas utilities by a date certain and suggests July 1, 2000, as a workable date. The Commission requests that this Committee consider such amendment as being in the public interest. However, for your information this same request has been rejected by the Senate Taxation Committee.

The Commission will be following this process carefully. We want the best possible outcome for Montanans. We are confident that the legislature wants the same.

Again, thank you for this opportunity. The Commission and its staff will be available to answer questions and assist you at any time.

EXHIBIT 8
DATE 4/7/97
SB 396

TESTIMONY OF PERRY COLE
ON BEHALF OF THE MONTANA POWER COMPANY
IN SUPPORT OF SENATE BILL 396
NATURAL GAS UTILITY RESTRUCTURING AND CUSTOMER CHOICE ACT
APRIL 7, 1997

My name is Perry Cole and I am the vice-president of business development and regulatory affairs of the Montana Power Company. I am testifying in support of Senate Bill 396, the Natural Gas Utility Restructuring and Customer Choice Act. My testimony focuses on Montana Power's goals of this legislation and the specific provisions in the Act.

The natural gas industry has been restructured for several years nationally and in Montana. Natural gas production has been deregulated since the early 1980's and the natural gas commodity market has developed to include many producers, marketers and brokers. Nationally, FERC has required interstate pipelines to separate their gas commodity sales from their pipeline transportation services. Interstate pipelines must allow all natural gas shippers, marketers and customers to have equal access to the interstate pipelines.

Montana Power opened access on its system in 1991 in response to large industrial customers' demands for access to market priced natural gas. Allowing open access has avoided bypass by these

large customers and has increased the volumes of gas flowing through the system, which helps to keep rates down for all customers.

Now the move in the Natural Gas Industry is to open access and allow customer choice for small commercial and residential customers. Several utilities around the country have conducted pilot programs and have taken steps to open their systems. Some utilities have had complete open access for natural gas customers for years.

Montana Power would like to provide the same opportunity to have access to the market gas supply to all customers. The purpose of this Bill is to provide the Commission with certain authority to protect consumers and to allow the utility to recover its costs in transitioning from a regulated gas supplier to an unregulated supplier competing in a well developed gas supply market.

Montana Power, the Montana Consumer Counsel and others recognize the benefits that will flow to customers if the utility is allowed to finance its transition costs using transition bond financing, just as electric utilities may be allowed to do. Transition bond financing will facilitate the settlement of an agreement that Montana Power and the Consumer Counsel and others

have reached in Montana Power's gas restructuring filing now before the Public Service Commission. The bill allows gas utilities to finance transition costs using transition bond financing.

The bill is intended to work this way:

A natural gas utility may open access to its system and provide customers with choice. If that causes the utility to have transition costs, then the Commission may allow the utility to recover those transition costs in a separate charge. If the Commission allows transition costs, then the utility will have the opportunity to finance those transition costs using transition bond financing.

This language provides the Commission with explicit authority to approve the agreement that Montana Power and the Consumer Counsel have negotiated without concern that the Commission's authority will be questioned on appeal.

The bill sets out requirements for open access, such as providing nondiscriminatory and comparable service and following standards of conduct, approved and ordered by the Commission.

The act goes further to provide the commission with explicit authority to license natural gas providers in Montana and to require the imposition of a Universal Systems Benefits Charge,

which in the Natural Gas Industry, will primarily provide low income bill assistance and low income weatherization programs.

Finally, the bill requires reciprocity. Reciprocity is important so that natural gas distribution service providers that do not open access on their systems do not have the inequitable opportunity to sell natural gas to customers on open access systems when others are not able to sell on their closed systems.

In summary, the natural gas industry will continue to restructure to the residential customer level. This bill clarifies specific Commission authority regarding transitions costs and allows the Commission to protect smaller customers from any harm that may result from a competitive market. Importantly, the bill also allows consumers to benefit from transition bond financing and to have access to market priced natural gas.

EXHIBIT 9
DATE 4/7/97
SB 396

THE MONTANA POWER COMPANY

Natural Gas Utility Restructuring and Customer Choice Act

Senate Bill 396
Business and Labor House
Committee Hearing
April 7, 1997

Natural Gas Restructuring

- The Natural Gas Industry has been restructured for several years nationally and in Montana.
- Gas transmission systems have been open and there is a well developed gas supply commodity market.
- Nationwide trend is for all customers to have gas supply choice.
- MPC's larger customers have had choice of gas supply since 1991.
- MPC's remaining customers are demanding retail access.

Key Elements

- Utilities may offer customers choice of natural gas supply.
- Commission has discretion over transition costs.
- Allows transition costs to be financed through Transition Cost Financing (Revenue Bonds).
- Consumer Protection through Commission oversight and gas supplier licensing.
- Reciprocity Provisions.
- Public purpose programs provided for through the establishment of a nonbypassable rate.

MPC's Current Natural Gas **Settlement and the Bill**

- MPC near settlement on its gas restructuring case.
- Settlement is dependent on gas legislation, in particular, revenue bonds.
- Settlement addresses all details of offering gas customers choice:
  - Timing of Choice
  - Pilot Programs
  - Obligations of Utility versus Suppliers
- The settlement resolves transition costs (stranded cost) issue with the Montana Consumer Counsel and Others in the case.

Moving the Natural Gas Industry **Forward in Montana**

- Montana's Natural Gas Restructuring Bill:
  - For the utilities that offer open access, it provides their customers with choice of natural gas supply.
  - Provides the Commission with certain consumer protection authority.
  - Allows utilities to recover its costs as it transitions to the unregulated gas supply market.
  - Should be approved by the Montana Legislature as it is in the best interests of Montanans.

EXHIBIT 11
DATE 4/7/97
SB 396

Amendments to Senate Bill No. 396
2nd Reading Copy

For the Committee on Taxation

Prepared by Todd Everts
March 25, 1997

1. Title, line 12.
Following: "PROGRAMS;"
Insert: "PROVIDING FOR OPTIONAL PERFORMANCE-BASED RATEMAKING"

2. Page 2.
Following: line 10
Insert: "(7) "Performance-based ratemaking" means those forms of regulation that include but are not limited to the use of revenue indexing, price indexing, ranges of authorized return, gas cost indexing, and innovative use of utility-related assets and activities, such as system sales of excess natural gas supplies, release of upstream pipeline capacity, and performance of billing services for other natural gas suppliers. A performance-based regulation may also include a mechanism for automatic annual adjustments of revenue to prices to reflect changes in any index adopted for the implementation of the performance-based form of regulation."
Renumber: subsequent subsections

3. Page 5.
Following: line 5
Insert: "NEW SECTION. **Section 7. Optional performance-based ratemaking for natural gas utilities -- commission rulemaking.** (1) The commission may authorize, upon application and after giving notice and conducting a hearing as provided in 69-3-303, any natural gas utility to implement an optional form of rate regulation using a performance-based ratemaking methodology.

(2) The commission may approve a performance-based ratemaking methodology if it finds that the methodology:

(a) preserves adequate service to all classes of customers, including transportation-only customers;

(b) does not unreasonably prejudice or disadvantage any class of natural gas utility users;

(c) provides incentives for improved performance by the natural gas utility in the natural gas utility's public duties;

(d) results in rates that are not excessive; and

(e) is in the public interest.

(3) If the commission approves a natural gas utility's application for a performance-based form of regulation with modifications, the natural gas utility may, at its option, withdraw its application and continue to be regulated under the form of regulation that existed immediately prior to the filing of the application.

(4) The commission may, after giving notice and conducting a hearing as provided in 69-3-303, modify or discontinue a natural gas utility's performance-based ratemaking previously authorized under this section if the commission finds that:

(a) natural gas service to one or more classes of customers has deteriorated or will deteriorate;

(b) any class of natural gas utility customer is being unreasonable prejudiced or disadvantaged;

(c) the performance-based ratemaking is not or will not provide reasonable incentives for improved performance by a natural gas utility in the performance of its public duties;

(d) rates are excessive compared to a natural gas utility's cost of service;

(e) terms ordered by the commission in connection with the approval of a natural gas utility's implementation of performance-based ratemaking have been violated; and

(f) the performance-based form of regulation is not in the public interest.

(5) The commission shall promulgate rules for monitoring a natural gas utility that has implemented performance-based ratemaking to ensure that the natural gas utility is in compliance with the requirements of this section."

Renumber: subsequent sections

4. Page 6, lines 15 and 16.
Strike: "8"
Insert: "9"

HOUSE STANDING COMMITTEE REPORT

April 7, 1997

Mr. Speaker: We, the committee on **Business and Labor** report that **Senate Bill 396** (third reading copy -- blue) **be concurred in as amended.**

Signed: *Bruce Simon, Chair*

And, that such amendments read: **Carried by: Rep. Simon**

1. Title, line 10.
Following: "SUPPLIERS;"
Insert: "PROVIDING FOR OPTIONAL PERFORMANCE-BASED RATEMAKING;"

2. Page 1, lines 21 and 24.
Strike: "8"
Insert: "9"

3. Page 2, following line 11.
Insert: "(7) "Performance-based ratemaking" means those forms of regulation that include but are not limited to the use of revenue indexing, price indexing, ranges of authorized return, gas cost indexing, and innovative use of utility-related assets and activities, such as system sales of excess natural gas supplies, release of upstream pipeline capacity, and performance of billing services for other natural gas suppliers. A performance-based regulation may also include a mechanism for automatic annual adjustments of revenue to prices to reflect changes in any index adopted for the implementation of the performance-based form of regulation."
Renumber: subsequent subsections

4. Page 2, lines 22 and 23.
Following: "COSTS" on line 22
Insert: "["
Following: "bonds" on line 23
Insert: "]"

Committee Vote:
Yes 18, No 1.

731535SC.Hgd

5. Page 3, line 6.
Strike: "8"
Insert: "9"

6. Page 5, following line 6.
Insert: "NEW SECTION. **Section 7. Optional performance-based ratemaking for natural gas utilities -- commission rulemaking.** (1) The commission may, upon application and after giving notice and conducting a hearing as provided in 69-3-303, authorize any natural gas utility to implement an optional form of rate regulation using a performance-based ratemaking methodology.

(2) The commission may approve a performance-based ratemaking methodology if it finds that the methodology:

(a) preserves adequate service to all classes of customers, including transportation-only customers;

(b) does not unreasonably prejudice or disadvantage any class of natural gas utility users;

(c) provides incentives for improved performance by the natural gas utility in the natural gas utility's public duties;

(d) results in rates that are not excessive; and

(e) is in the public interest.

(3) The commission may, after giving notice and conducting a hearing as provided in 69-3-303, modify or discontinue a natural gas utility's performance-based ratemaking previously authorized under this section if the commission finds that:

(a) natural gas service to one or more classes of customers has deteriorated or will deteriorate;

(b) any class of natural gas utility customer is being unreasonable prejudiced or disadvantaged;

(c) the performance-based ratemaking is not providing or will not provide reasonable incentives for improved performance by a natural gas utility in the performance of its public duties;

(d) rates are excessive compared to a natural gas utility's cost of service;

(e) terms ordered by the commission in connection with the approval of a natural gas utility's implementation of performance-based ratemaking have been violated; and

(f) the performance-based form of regulation is not in the public interest.

(4) The commission shall promulgate rules for monitoring a natural gas utility that has implemented performance-based ratemaking to ensure that the natural gas utility is in compliance with the requirements of this section."
Renumber: subsequent sections

7. Page 6, lines 18 and 19.
Strike: "8"
Insert: "9"

8. Page 6, line 21.
Strike: "**instruction**"
Insert: "**instructions**"

9. Page 6, line 22.
Following: "then"
Insert: ": (1)"
Strike: "section"
Insert: "sections 2(9)(a)(v) and (9)(b) and "

10. Page 6, line 23.
Strike: "is"
Insert: "are"
Following: "void"
Insert: "and the subsections of section 2(9) are renumbered; and
(2) the bracketed language contained in [section 2(9)(a)(i) of this act] is void"

-END-

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL DATE 4/7/97

NAME	PRESENT	ABSENT	EXCUSED
Bruce Simon, Chairman	✓		
Paul Sliter Vice Chairman	✓		
Bob Pavlovich, Vice Chairman	✓		
Joe Barnett	✓		
Rod Bitney			X
Sylvia Bookout	✓		
Charles Devaney	✓		
David Ewer			X
Kim Gillan	✓		
Billie Krenzler	✓		
Bob Lawson	✓		
Rod Marshall	✓		
Gay Ann Masolo	✓		
Wes Prouse	✓		
Carolyn Squires	✓		
Jay Stovall	✓		
Cliff Trexler	✓		
Joe Tropila	✓		
Carley Tuss	✓		

Kim Gillen
Proxy
HB 3416

YES

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

_____SUB-COMMITTEE DATE_____

BILL NO. 396 SPONSOR(S)_____

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Nancy McCaffree	Pub Law Com.	–	
Sheila Rice	COF-GDS	X	
Susan Lee	Jade Garden	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Total 1

SB 395 *(70th Legislative Day - Senate - 3rd Reading)* passed as follows:

Yeas: Bartlett, Beck, Brooke, Christiaens, Cole, Crippen, Crismore, DePratu, Doherty, Eck, Emerson, Estrada, Foster, Franklin, Glaser, Grosfield, Halligan, Hargrove, Hertel, Jabs, Jenkins, Jergeson, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Shea, Sprague, Stang, Swysgood, Taylor, Toews, Van Valkenburg, Waterman, Wilson, Mr. President.

Total 40

Nays: Baer, Benedict, Bishop, Burnett, Devlin, Gage, Harp, Holden, Keating, Thomas.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 396 *(69th Legislative Day - Senate - 2nd Reading)* - Senator Foster moved SB 396, second reading copy, be amended as follows:

1. Title, line 12.

Following: "DATE"

Insert: "AND A RETROACTIVE APPLICABILITY DATE"

2. Page 6, line 6.

Following: "**clause**"

Strike: "."

Insert: "— **retroactive applicability.** (1) Except as provided in subsection (2),"

Strike: "This"

Insert: "this"

3. Page 6.

Following: line 8

Insert: "(2) [This act] applies retroactively, within the meaning of 1-2-109, to restructuring filings filed with the public service commission after June 1, 1996."

Amendment **adopted** unanimously.

Senator Foster moved SB 396, as amended, do pass. Motion carried as follows:

Yeas: Baer, Bartlett, Beck, Benedict, Bishop, Brooke, Burnett, Christiaens, Cole, Crippen, Crismore, DePratu, Devlin, Doherty, Eck, Emerson, Estrada, Foster, Franklin, Gage, Glaser, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jenkins, Jergeson, Keating, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Shea, Sprague, Stang, Swysgood, Taylor, Thomas, Toews, Van Valkenburg, Waterman, Wilson, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 396 *(70th Legislative Day - Senate - 3rd Reading)* passed as follows:

Yeas: Baer, Bartlett, Beck, Benedict, Bishop, Brooke, Burnett, Christiaens, Cole, Crippen, Crismore, DePratu, Devlin, Doherty, Eck, Emerson, Estrada, Foster, Franklin, Gage, Glaser, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jenkins, Jergeson, Keating, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Shea, Sprague, Stang, Swysgood, Taylor, Thomas, Toews, Van Valkenburg, Waterman, Wilson, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 396 *(74th Legislative Day - House - 2nd Reading)* - Representative Simon moved consideration of SB 396 be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

SB 396 *(80th Legislative Day - House - 2nd Reading)* - Representative Simon moved SB 396 be concurred in. Motion carried as follows:

Ayes: Adams, Ahner, Anderson, Arnott, Bankhead, Barnett, Barnhart, Beaudry, Bergman, Bergsagel, Bitney, Boharski, Bohlinger, Bookout, Brainard, Carey, Clark, Cocchiarella, Curtiss, DeBruycker, Denny, Devaney, Dowell, Ellis, Feland, Galvin, Gillan, Grady, Grimes, Grinde, Hagener, H.S. Hanson, M. Hanson, Harper, Harrington, Hayne, Heavy Runner, Holland, J. Johnson, R. Johnson, Jore, Keenan, Kitzenberg, Knox, Kottel, Krenzler, Lawson, Marshall, Masolo, McCann, McCulloch, McGee, Menahan, Mills, Molnar, Mood, Ohs, Orr, Pavlovich, Pease, Peck, Prouse, Quilici, Ream, Rehbein, Rose, Ryan, Sands, Schmidt, Simon, Simpkins, Simpson, Sliter, Smith, Soft, Squires, Story, Stovall, Swanson, Tash, Taylor, Trexler, Tropila, Tuss, Vick, Wagner, Walters, Wells, Whitehead, Wiseman, Wyatt, Zook, Mr. Speaker.

Total 93

Noes: Cobb, Ellingson, Ewer, Hurdle, Kasten, Raney.

Total 6

Voted Absentee: Clark, Aye.

Excused: Hibbard.

Total 1

Absent or not voting: None.

Total 0

SB 396 *(81st Legislative Day - House - 3rd Reading)* concurred in as follows:

Ayes: Adams, Ahner, Anderson, Arnott, Bankhead, Barnett, Beaudry, Bergman, Bergsagel, Bitney, Boharski, Bohlinger, Bookout, Brainard, Clark, Cocchiarella, Curtiss, DeBruycker, Denny, Devaney, Dowell, Feland, Galvin, Gillan, Grady, Grimes, Grinde, Hagener, H.S. Hanson, M. Hanson, Harper, Harrington, Hayne, Heavy Runner, Holland, J. Johnson, R. Johnson, Jore, Kasten, Keenan, Kitzenberg, Knox, Kottel, Krenzler, Lawson, Marshall, Masolo, McCann, McCulloch, McGee, Menahan, Mills, Molnar, Mood, Ohs, Orr, Pavlovich, Prouse, Quilici, Ream, Rehbein, Rose, Ryan, Sands, Schmidt, Simon, Simpkins, Simpson, Sliter, Smith, Soft, Squires, Story, Stovall, Swanson, Tash, Taylor, Trexler, Tropila, Tuss, Vick, Wagner, Walters, Wells, Whitehead, Wiseman, Zook, Mr. Speaker.

Total 88

Noes: Barnhart, Carey, Cobb, Ellingson, Ewer, Hurdle, Pease, Peck, Raney, Wyatt.

Total 10

Excused: None.

Total 0

Absent or not voting: Ellis, Hibbard.

Total 2

SB 396 *(82nd Legislative Day - Senate - 2nd Reading)* - House Amendments - Senator Foster moved House Amendments to SB 396 be adopted. Motion carried with Senator Gage voting nay.

SB 396, *(83rd Legislative Day - Senate - 3rd Reading)* as amended by the House, passed as follows:

Yeas: Baer, Bartlett, Beck, Benedict, Brooke, Christiaens, Cole, Crippen, Crismore, DePratu, Devlin, Doherty, Eck, Emerson, Estrada, Foster, Franklin, Glaser, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jenkins, Keating, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Shea, Sprague, Stang, Swysgood, Taylor, Thomas, Toews, Van Valkenburg, Waterman, Wilson, Mr. President.

Total 46

Nays: Bishop, Gage, Jergeson.

Total 3

Absent or not voting: None.

Total 0

Excused: Burnett.

Total 1

SB 397 *(69th Legislative Day - Senate - 2nd Reading)* - Senator Foster moved consideration of SB 397 be placed below HB 125 on the second reading board this legislative day. Motion carried.

SB 397 *(69th Legislative Day - Senate - 2nd Reading)* - Senator Grosfield moved SB 397 do pass. Motion **failed** as follows:

Yeas: Beck, Benedict, Bishop, Burnett, Cole, Crippen, Crismore, DePratu, Eck, Emerson, Foster, Grosfield, Halligan, Hargrove, Harp, Jabs, Keating, McNutt, Mesaros, Mohl, Sprague, Swysgood, Van Valkenburg.